

**FIFTH AMENDMENT
TO THE
CITY OF GALLATIN
401(k) RETIREMENT PLAN**

WHEREAS, the City of Gallatin (the “**City**”) established the City of Gallatin 401(k) Retirement Plan (the “**Plan**”) for the benefit of its eligible employees, which was most recently amended and restated, effective January 1, 2009; and

WHEREAS, the City subsequently amended the Plan several times to make changes as required or permitted by ERISA and the Internal Revenue Code; and

WHEREAS, the City desires to amend the Plan to: (i) add certain Qualified Military Service provisions as required or permitted by the Heroes Earnings Assistance and Relief Tax Act of 2008; (ii) add certain provisions as required or permitted by the Worker, Retiree and Employer Recovery Act of 2008; and (iii) make certain technical changes required or permitted by the Pension Protection Act of 2006.

NOW, THEREFORE, effective as of January 1, 2010 (except as otherwise noted herein), the City hereby amends the Plan as follows:

1. A new paragraph is added to the end of “Compensation” under Section 1.10 of the Plan, which shall provide as follows:

Effective January 1, 2009, Compensation shall include differential wage payments (as defined in Section 3401(h)(2) of the Code) made by the Employer to a former Participant with respect to any period while that individual is performing qualified military service while on active duty for a period of more than thirty (30) days, regardless of whether that individual returns to employment with the Employer.

2. A new paragraph is added to the end of “415 Compensation” under Section 1.29 of the Plan, which shall provide as follows:

Effective January 1, 2009, 415 Compensation shall include differential wage payments (as defined in Section 3401(h)(2) of the Code) made by the Employer to a former Participant with respect to any period while that individual is performing qualified military service while on active duty for a period of more than thirty (30) days, regardless of whether that individual returns to employment with the Employer.

3. Section 4.14 (Qualified Military Service) is deleted.

4. Two new paragraphs are added to the end of “Required Minimum Distributions” under Section 6.8 of the Plan, which shall provide as follows:

(h) Effective January 1, 2009, and notwithstanding anything else contained in the Plan to the contrary, a Participant or beneficiary who received a required minimum distribution prior to 2009, and would have been required to receive required minimum distributions for 2009 but for the enactment of Section 401(a)(9)(H) of the Code (“**2009 RMDs**”), and who would have satisfied that requirement by receiving distributions that are: (1) equal to the 2009 RMDs; or (2) one or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for the life (or life expectancy) of the Participant, the joint lives (or joint life expectancy) of the Participant and the Participant’s designated beneficiary, or for a period of at least 10 years (“**Extended 2009 RMDs**”), will receive those distributions for 2009 unless the Participant or beneficiary chooses not to receive such distributions. Participants and beneficiaries described in the preceding sentence will be given the opportunity to elect to stop receiving the distributions described in the preceding sentence.

Effective January 1, 2009, and notwithstanding anything else contained in the Plan to the contrary, a Participant or beneficiary who would have been required to receive required minimum distributions for the first time in 2009 but for the enactment of section 401(a)(9)(H) of the Code (“**2009 RMDs**”), and who would have satisfied that requirement by receiving distributions that are: (1) equal to the 2009 RMDs; or (2) one or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for the life (or life expectancy) of the Participant, the joint lives (or joint life expectancy) of the Participant and the Participant’s designated beneficiary, or for a period of at least 10 years (“**Extended 2009 RMDs**”), will not receive those distributions for 2009 unless the Participant or beneficiary chooses to receive such distributions. Participants and beneficiaries described in the preceding sentence will be given the opportunity to elect to receive the distributions described in the preceding sentence.

5. A new sub-paragraph (f) is added to the end of “Advance Distribution for Hardship” under Section 6.12 of the Plan, which shall provide as follows:

(f) Distributions pursuant to this Section 6.12, are also permitted for expenses described in clauses (a), (c), and (e) above (relating to medical, tuition, and funeral expenses) for an individual who is named as a Beneficiary of the Participant at the time that the expense giving rise to the hardship occurs, provided that all other requirements of this Section 6.12 for a hardship distribution are satisfied.

6. A new paragraph is added to the end of Section 6.13 “Domestic Relations Order Distribution”, which shall provide as follows:

A domestic relations order that otherwise satisfies the requirements for a qualified domestic relations order (a “QDRO”) will not fail to be a QDRO: (i) solely because the order is issued after, or revises, another domestic relations order or QDRO; or (ii) solely because of the time at which the order is issued, including issuance after the annuity starting date or after the Participant’s death; however, such domestic relations order is subject to the same limitations, requirements and protections that otherwise apply to a QDRO under the terms of this Plan and applicable law.

7. A new paragraph is added to the end of Section 6.14(b)(3) of the Plan, which shall provide as follows:

Effective January 1, 2010, an eligible distributee shall include (in addition to the persons currently specified in the Plan), a designated Beneficiary (as defined in Section 401(a)(9)(E) of the Code) of a deceased Participant or former Participant who is not the surviving spouse of the Participant but elects, at the time and in the manner prescribed by the Plan Administrator, to have any portion of an eligible rollover distribution made with respect to the Participant paid directly to an individual retirement plan that is described in Code Section 402(c)(8)(B)(i) or Code Section 402(c)(8)(B)(ii) and that is established for the purpose of receiving the distribution. If the Participant dies before his or her required beginning date and the non-spouse Beneficiary rolls over to an IRA the maximum amount eligible for rollover, the Beneficiary may elect to use either the 5-year rule or the life expectancy rule, pursuant to Treas. Reg. § 1.401(a)(9)-3, A-4(c), in determining the required minimum distributions from the IRA that receives the non-spouse Beneficiary’s distribution. A Participant’s designation of a non-spouse Beneficiary is subject to all other provisions of the Plan. Any distribution on behalf of a non-spouse Beneficiary is not eligible for the 60-day rollover rule provided in Code Section 402(c)(3).

8. A new sub-paragraph 6.14(b)(5) is added to the end of “Direct Rollover” under Section 6.14 of the Plan, which shall provide as follows:

(5) Effective January 1, 2009, and notwithstanding anything else contained in the Plan, for purposes of the Direct Rollover provisions of the Plan, 2009 RMDs and Extended 2009 RMDs (as defined in the Plan) will be treated as Eligible Rollover Distributions in 2009.

9. A new sub-paragraph 6.14(b)(6) is added to the end of “Direct Rollover” under Section 6.14 of the Plan, which shall provide as follows:

In addition, effective for distributions on or after January 1, 2008, a distributee may elect, at the time and in the manner prescribed by the Plan administrator, to have any portion of an eligible rollover distribution paid directly to a Roth IRA (as defined in Code Section 408A) in accordance with, and subject to the limitations of Code Section 408A.

10. A new paragraph 9.12 is added to the Plan, which shall provide as follows:

9.12 180-day notification period. For any distribution notice issued in Plan Years beginning on or after January 1, 2011, any reference to the 90-day maximum notice period prior to distribution in applying the notice requirements of Section 402(f) of the Code (the rollover notice), Section 411(a)(11) of the Code (Participant's consent to distribution), or Section 417 of the Code (notice under the joint and survivor annuity rules) shall be replaced with 180 days.

11. A new paragraph 9.13 is added to the Plan, which shall provide as follows:

9.13 Notice of right to defer distribution. For any distribution notice issued in Plan Years beginning on or after January 1, 2011, the description of a Participant's right, if any, to defer receipt of a distribution also will describe the consequences of failing to defer receipt of the distribution.

12. A new Article X is added entitled "Qualified Military Service," which shall provide as follows:

10.1 Qualified Military Service. Notwithstanding any provision of this Plan to the contrary, contributions, benefits, and service credit with respect to Qualified Military Service will be provided in accordance with Section 414(u) of the Code and the regulations promulgated thereunder. For this purpose, an Employee who returns to employment following Qualified Military Service and is entitled to additional Employer contributions for any Plan Year in accordance with Section 414(u) of the Code shall be treated as receiving Total Compensation from the Employer during such period of Qualified Military Service equal to the Total Compensation the Employee would have received during such period if the Employee were not in Qualified Military Service, determined based on the rate of pay the Employee would have received from the Employer but for such absence during the period of Qualified Military Service, or, if such amount is not reasonably certain, based on the Employee's average Total Compensation from the Employer during the 12-month period immediately preceding the Qualified Military Service (or, if shorter, the period of employment immediately preceding the Qualified Military Service.)


10.2 Death Benefits While On Qualified Military Service. Effective for deaths occurring on or after January 1, 2007, in the case of any Participant who dies while performing Qualified Military Service, the survivors of such Participant are entitled to any additional benefits (other than benefit accruals relating to the period of Qualified Military Service) provided under the Plan had the Participant resumed employment with the Employer and then terminated employment on account of death.


10.3 Treatment of Differential Wage Payments. Effective for Plan Years commencing on or after January 1, 2009, a former Participant who receives a differential wage payment (as that term is defined in Section 3401(h)(2) of the Code)


from the Employer with respect to any period while that individual is performing Qualified Military Service on active duty for a period of more than thirty (30) days shall be treated as an Eligible Employee of the Employer and any such differential wage payment shall be treated as included in Total Compensation of the Participant. So long as the differential wage payments are made on reasonably equivalent terms to all Eligible Employees of the Employer and all affiliates who are performing Qualified Military Service on active duty for more than thirty (30) days, the Plan shall not be treated as failing to meet the requirements of Section 414(u)(1)(C) of the Code by reason of any contribution or benefit which is based on the differential wage payments.

10.4 Benefit Accruals as a Result of Death or Disability. Effective for Plan Years commencing on or after January 1, 2007, for benefit accrual purposes, the Employer shall treat a Participant who dies or becomes disabled while performing Qualified Military Service as if the Participant had resumed employment with the Employer on the day preceding death or disability and terminated employment on the actual date of death or disability. The Employer shall treat all Participants performing Qualified Military Service who die or became disabled on reasonably equivalent terms.

Executed this 13th day of November, 2012 in the City of Gallatin, Tennessee


Print Name: Ronald E. Mayberry


Print Name: Anne Kemp


Print Name: Rachel Nichols